

**Town of Milton
Planning & Zoning Meeting
Milton Library, 121 Union Street
Tuesday, January 15, 2013
6:30 pm**

1. Call to order
Don Mazzeo: The meeting of the Planning and Zoning Commission of January 15, 2013 will come to order please at 6:30 p.m..
2. Roll call of members

Linda Edelen	Present
Bob Heinrich	Present
Lynn Ekelund	Present
Tim Nicholson	Present
Barry Goodinson	Present
Don Mazzeo	Present
3. Additions/Corrections to agenda
Don Mazzeo: Do we have any additions or corrections to the agenda?
4. Approval of agenda
Don Mazzeo: Seeing none, I'll entertain a motion to accept the agenda.
Tim Nicholson: So moved.
Lynn Ekelund: Second.
Don Mazzeo: All in favor say aye. Opposed. Motion carried.
5. Approval of minutes – November 20, 2012
Don Mazzeo: We have minutes from the November 20, 2012 meeting. Do we have any additions, corrections...
Bob Heinrich: I have four corrections, Mr. Chairman.
Don Mazzeo: Alright, Robert, where are you at?
Bob Heinrich: I have Page 27, it seems like there are three of them in a row here. Hang on a second. Page 27, Don Mazzeo, at the top third there's two things I generally like seeing on a plan is an alley. I recall that statement actually and you meant to say I "don't like seeing on a plan".
Don Mazzeo: Not alley.
Bob Heinrich: I think that got omitted in the transcription, because I remember you saying that.
Lynn Ekelund: As do I.
Don Mazzeo: Okay. Anything else?
Bob Heinrich: Yes, on Page 28, it's a minor issue. Mid-page, Don Mazzeo the long paragraph. "I don't want to every see that particularly here in Milton." I think it's "ever".
Don Mazzeo: Ever. Agreed.
Bob Heinrich: Next Page 29, Yours truly, Bob Heinrich. I don't think I said that. I think Mr. Ben Gordy did.
Don Mazzeo: Which one? Which part? Your name's here three times.
Bob Heinrich: Where it says "Yes, that is true. I guess we'd have a tough spot finding a place to get rid of single family homes...". I didn't say that, Ben Gordy did.

Don Mazzeo: Oh, okay.

Bob Heinrich: If you read that, I believe. Does that make sense?

Don Mazzeo: Makes more sense.

Lynn Ekelund: Makes more sense.

Don Mazzeo: So be it.

Bob Heinrich: And on Page 38, a misspelling, minor, again. Don Mazzeo, first Don Mazzeo, I will now close the public portion of the meeting for this particular “appliPlation”.

Don Mazzeo: Okay, spelling error.

Bob Heinrich: That's all I've got.

Don Mazzeo: We can do that.

Tim Nicholson: It must be a new word.

Don Mazzeo: It's a new word. AppliPlation. It's a combination. Alright, any other comments, questions, corrections to the minutes of November 20, 2012?

Lynn Ekelund: Move to approve the minutes of November 20, 2012, as amended.

Bob Heinrich: Second.

Don Mazzeo: All in favor say aye. Opposed. Motion carried. For those of you that are here this evening, I would like to welcome our newest member, Mr. Barry Goodinson. Welcome, Barry.

Barry Goodinson: Thank you.

Don Mazzeo: I'm going to change this around just slightly this evening. I'm going to go over to our Business Section, Section 7a, Revision to Heritage Creek Master Plan. I think we should have a quick time of that one, let's put it that way.

7. Business – Discussion and possible vote on the following items:

a. Revision to Heritage Creek Master Plan

An application from Fernmoor Homes at Heritage Creek requesting final review/approval for the revision of the Heritage Creek Master Plan. The property is located on Harbeson Road further identified by Sussex County Tax Map and Parcel # 2-35-20.00-56.00.

Don Mazzeo: And do we have representation here from the applicant?

Mike Kobin, George, Miles and Buhr: Good evening. We are the Project's Engineer and I have with me Ben Gordy with Ocean Atlantic Management. I'm just going to take a minute to go over the revisions that were made in response to Mr. Kerr's letter and to the discussion at the last meeting. If you refer to Sheet 2, which is the color – we've corrected the number of duplexes and the number of townhouses to 45 and 115, respectively. And then Note 20, on the cover sheet, we've added a sentence at the bottom of the page there, saying that all lots having the alley are classified as rear load and driveways and garages are to be accessed from the alley. That's something that you had asked to have added. On that same note, we've now got a dual indication there for front yard setbacks, depending on whether it's rear load or front load; 5' for the rear, 22' as was agreed for the fronts and that's for all three housing types shown there. Then there were, on that same page, there were a couple of references to Carey Communities and those have been corrected to Heritage Creek. Also, with respect to the front yard depths on Sheet 10, there's been some typical lot layouts that have been added showing the front loads, as well as the rear loads. I guess the only other thing really of note is also on Sheet 10 and that was the area right along Route 5, the lots that were of concern there. Those were pulled back to 100', so that leaves us 30' now between the rear of the lot and the right-of-way line; and we looked at that and what we decided to do to treat that was to pull an abbreviated version of the berm out along the back

of that. It's 10' wide at the top, 30' wide in total and it's average is about 2' tall and that will be screened with landscaping, instead of fencing or anything else, so I could go with the natural since we had the space there now.

Don Mazzeo: Anything else to offer, at this point?

Mike Kobin: The only other thing is there were two shapes on this plan that were sewer easements over here in the back; those have just been taken off the plan.

Don Mazzeo: Very good. Okay. Any questions from the Commission members? I only have one and that would be of Mr. Kerr, based on information that you have provided to us regarding this Master Plan, has the applicant succeeded in addressing all of the concerns that you had, as well as the ones that we proposed, which I know I just heard.

Bob Kerr, CABA Associates: Yes, he has responded to all the comments from the meeting at which you got the preliminary approval by the Commission.

Don Mazzeo: Okay.

Mike Kobin: The only other thing I would mention is that the 22' setback had been referred to Council and that was approved at the last meeting.

Lynn Ekelund: And that was not only approved for this particular phase, but it was approved for the Master Plan.

Mike Kobin: Yes, for the Master Plan. Right.

Lynn Ekelund: Bob Kerr, I just have one question for you about the removing of the 10' of the berm. I don't remember us talking about that specifically. Perhaps I misheard you, it was the other sheet when you were talking about where we were concerned about the five homes.

Mike Kobin: Yes.

Lynn Ekelund: If you could go back to the prior...

Bob Heinrich: Are you talking about the trees?

Lynn Ekelund: I'm talking about right in there.

Mike Kobin: Yes, originally when we brought this to you, these lots were I believe 20' longer, or deeper than they are now.

Lynn Ekelund: Okay.

Mike Kobin: And there was some concern that we wouldn't be able to get screening in there, so we shortened those up to 100' and this is what the existing berm looks like out there now. We've pulled a sort of abbreviated version of that around, in order to screen it.

Lynn Ekelund: Okay, I'm sorry. I misunderstood you.

Don Mazzeo: The berm is still there, it's just somewhat shortened, narrower.

Mike Kobin: Yes. Narrower.

Tim Nicholson: Those are pretty high Leland Cypress, or whatever you've got put in there, right?

Mike Kobin: Yes.

Tim Nicholson: Yes, they're 15' or something.

Mike Kobin: They're pretty fast growing. It's a good screen.

Barry Goodinson: Yes, I have a concern with the Leland Cypress, though, because they are fast growing, they tend to tip over and so I'm a little concerned about their longevity. I would prefer another type of evergreen there, I think, that would be better for the long term.

Mike Kobin: Did you have something specific in mind.

Barry Goodinson: I think Ilex, some holly; they're slower growing, but they'll stick around, where the Leland Cypress have been over planted and they're kind of weedy trees, you know.

Mike Kobin: Okay, I don't think there would be any objection to changing that.

Don Mazzeo: Okay. Any other comments?

Bob Kerr: Just if I may, that the landscaping... there's landscaping shown in that area and it would probably be more appropriate that when they come in for the individual phasing of the sub-division that that's when the... It's more of a finalization of the landscaping and changes could be made at that time.

Don Mazzeo: Okay. Sounds good. Alright, seeing no other comments, I will accept a motion.

Bob Heinrich: I will make a motion to accept the applicant's revision to the Master Plan.

Tim Nicholson: Second.

Don Mazzeo: Let's have a roll call vote:

Linda Edelen	Aye. I approve.
Bob Heinrich	Yes
Lynn Ekelund	Yes
Tim Nicholson	Yes
Barry Goodinson	Yes
Don Mazzeo	Yes

Don Mazzeo: Okay, we now have an approval for, it's a final approval for the revision of Heritage Creek Master Plan which is Sussex County Tax Map and Parcel # 2-35-20.00-56.00.

Mike Kobin: Thank you.

Don Mazzeo: Gentlemen, thank you.

Seth Thompson: Mr. Chairman, Bob Kerr and I were just discussing the fact... I'm sure the applicant's aware but just to remind them, they need to record this Revised Master Plan. I'm sure you're aware of that, but we just need that to happen. Thank you.

Don Mazzeo: Thank you, Seth.

6. Public Hearing

a. Preliminary Site Plan Review

The applicant, Richard Ingram is requesting a preliminary site plan review/approval to construct a one story office building on the property located at 901 Palmer St. The property is zoned C1 (Commercial) and is further identified by Sussex County Tax Map and Parcel # 2-35-14.00-114.02.

Don Mazzeo: Do we have a representative of the applicant in here this evening?

Byron Jefferson, Byron Jefferson Engineering Services: I represent Mr. Ingram. As you see on the plan, it's a small office on a one-half acre commercially zoned lot. The larger site was formerly all owned by Mr. Ingram and he has since sold part of it off to the Milton Landing Apartments in the rear and part of it to the Dollar General, across Palmer Street and when they had done that, it was an agreement that the stormwater pond on the Milton Landing site would serve this site, also. So we've had discussions with Stormwater and with Sussex Conservation District and we're proceeding on that basis and the only problems we've come up with along that line, have been that the stormwater people had asked us to do some investigation, some as built drawings of the stormwater pond, and to do some soil testing, which we've done and also because the stormwater drainage _____ that pond does not look adequate to us to convey this, we need to run separate pipes over to the pond. One thing that's different from what you see on the drawings you have, I have a smaller version of the same thing.

Don Mazzeo: Has a copy of this been provided to our engineer?

Byron Jefferson: No.

Don Mazzeo: Not at this point?

Byron Jefferson: No. The only differences on this from what you have is the way we ___ the pipe. The catch basins are still in the same location as on the drawing you have. We're just running the pipes around the site a little differently to connect them, and then we're showing a separate pipe going out here and we would like... the reason I'm bringing this up, is we would like to be able to go through part of the Town of Milton's property here. The majority of the Town of Milton's property is inside of the fence with the pump station and paved, but we're not talking about going through that portion; we're talking about we'd like to go through the portion that's shown here. We'd like the town's approval to do that. It would make our connection a whole lot easier for a couple of reasons. We wouldn't have to cross the sewer lateral coming out of the general store, we'd have more room, we shouldn't be affecting anything in the town, other than running a stormwater pipe through the town's property. I didn't have anything further, other than whatever questions you all have. You all have the drawings. I could put them up here.

Don Mazzeo: Could you kind of walk us through the generality of what this proposed building would look like; typical type tenants you might be looking towards. You're indicating it's an office building. I would hope that in the back of our applicant's mind that it's a type of person to come in.

Byron Jefferson: We had provided drawings, copies of this.

Tim Nicholson: Right, we have them.

Byron Jefferson: In the package. The only difference... this artist, our preliminary rendering shows the building on a slant, the building on a crawl space and we've lowered it to a slab to make it better access, less stairs, but otherwise the building is the same. As far as the type of residents, I don't know who will... that would be a better question for Mr. Ingram. We're not looking for any particular type of tenant, that I'm aware of.

Bob Heinrich: It wouldn't be a professional, like a doctor or a dentist or a lawyer?

Byron Jefferson: Yes, they'd certainly be welcome.

Tim Nicholson: Who did you say owns the apartments now? Did he sell those? The apartments that are next to it.

Byron Jefferson: Milton Landing?

Tim Nicholson: I thought you said he still owned them. I wanted to be sure.

Byron Jefferson: Milton Landing, I think is owned by Milford Housing Corporation.

Tim Nicholson: Oh, so it's a different owner?

Byron Jefferson: Yes. It's not Mr. Ingram's anymore.

Tim Nicholson: Right, but there was an agreement in place that the stormwater...

Byron Jefferson: Yes and they have solidified with a letter. I mean, we have a letter from Milford Housing saying that they understand that and they're in agreement.

Tim Nicholson: They're okay with it. Okay.

Lynn Ekelund: Robin, do you have that letter?

Byron Jefferson: No. I don't believe we furnished that. We got it before we started working on the stormwater.

Bob Heinrich: I have a question. Sorry for the interruption folks. Getting back to the stormwater issue, unless Mr. Chairman if our engineer's going to go over this, but Item 13 addresses that in our engineer's comments and it says here that the developer needs to show that the apartment owner's have agreed to this particular use and that there is a written agreement concerning the maintenance of the pond. Has that been complied with?

Byron Jefferson: No. I haven't seen those comments.

Bob Heinrich: Oh, I'm sorry, I thought these comments were already distributed.

Don Mazzeo: I thought so also.

Byron Jefferson: I've now seen these comments. We have a letter confirming from Milford Housing what I just said, but we would have to come up with an agreement on the maintenance. We would have to draft an agreement on that. There is not one, a specific agreement on the maintenance drafted yet.

Bob Heinrich: I wonder if we shouldn't just start with these questions, because there are 18 of them here.

Don Mazzeo: I'm just a little confused, personally, here. This letter, I would have hoped was going to be in the possession of the applicant's engineer, architect before this meeting and it appears that that's not the case and I don't like going over letters without having at least some previous history with the applicant and their information in hand. I don't think it's appropriate, to be quite honest.

Seth Thompson: The one element to be aware of is that we are at the preliminary site plan review, so certainly the committee can obviously attach conditions on that preliminary approval that they're going to then need to meet by the time they come back for final approval. They're going to have to do the same with whatever State agencies are applicable.

Bob Heinrich: But, Seth, let me just follow up. If the applicant hasn't seen these comments, for us to stay here tonight and go over each and every one of them, without him having the benefit of seeing them even, seems to be a bit of a waste of time.

Byron Jefferson: Well, a lot of these comments that I see here, are just comments; the parcel size is so many square feet and approximately so many acres. It's not a question. A lot of these 18 comments are not things for us to resolve, they're just comments.

Don Mazzeo: Alright, let's go through them then.

Byron Jefferson: No. 1, the applicant proposed to construct a 3,832 sq. ft. office building on the parcel and the architectural elevations. The building scales approximately 25'. Per the Zoning Code, the maximum height is 40'.

Don Mazzeo: You're within code.

Byron Jefferson: No. 2, parcel size is 20,674 sq. ft. or approximately .47 acres. If you want to pick out the ones that have a comment...

Don Mazzeo: I'll tell you what Mr. Jefferson... Let's change this format just slightly. Since Mr. Kerr wrote this, let's ask Mr. Kerr to go through them individually. Then you can respond accordingly.

Byron Jefferson: Very well.

Bob Kerr: Thank you. Rather than reading each one, I'll paraphrase to keep it a little shorter. Will that be okay? And skip a couple.

Don Mazzeo: That works.

Bob Kerr: No. 5, there's just a note on the front sheet that needs to come off. Mayor and Council don't have a step in this process. They have met the parking requirement. They have more than is required. They're required to have 13 and they're showing 20. Bumper blocks are required where they don't... Bumper blocks or curbing, is required for each parking spot. No. 8 is about loading zones. If I'm going too fast, stop me, please. But there are two loading zones shown, which only one would be required. They do show a screened dumpster pad. Based on a comment earlier, it probably isn't a point now, but there was a step shown coming out of the back of the building. If the building's on grade, obviously there won't be steps, so there isn't a conflict between sidewalk and steps. The size of the water main, they're showing a 6" water main for this size building, unless it is heavily sprinklered.

Bob Heinrich: What about 11?

Bob Kerr: Did I skip one?

Bob Heinrich: Yeah, Item 11.

Bob Kerr: I'm sorry. Oh, a very important one. They're showing a sidewalk along Route 16, but they're not showing curb to be provided; the Town Code requires curbing and sidewalk to be provided for all new construction, so the curb does come around the intersection of Palmer and Route 16, but it needs to extend further west along the property line.

Byron Jefferson: A question on that. You're talking about extending the existing... from where the existing sidewalk ends now, extending it from that point?

Bob Kerr: Extending the curb and sidewalk from wherever it ends, down to the western property line. No. 12, is about the size of the water main, 6"; probably much larger than the building needs, if it is sprinklered.

Bob Heinrich: If I can interrupt, do we know if it is to be sprinklered or not?

Bob Kerr: There's nothing to indicate one way or another, but based on the size of the building, it's not a Fire Marshall requirement.

Byron Jefferson: We're not planning on sprinklering it, at this time.

Bob Kerr: It's more in the 1" to 1-1/2" water service size.

Bob Heinrich: Then what's the resolution for the 6" water main?

Bob Kerr: He should just come back with the size that they want to use, but a 6" is really large, so it just needs to be looked at, based on the needs of the occupants in the building.

Byron Jefferson: No problem. I agree.

Bob Kerr: We've had the discussion about the stormwater pond. Both the Sussex Conservation District and the Town want to see that there is some type of agreement between the various parties, as far as use of the pond and then who's going to be responsible for the maintenance. Sheet L-1 shows lighting for the property. Sheet LS-1 is the landscaping plan. There aren't a lot of areas available. The majority of the site is either building or paving, but they have landscaped those small areas that are available. The height of the trees shown on landscaping plan doesn't meet the Town Code. There's an existing sign shown at the intersection of Palmer Street and 16; there's no information regarding any new signs or if that sign's to stay, or what the status is going to be.

Byron Jefferson: We showed on the building plans, we had notes on here that a typical sign location for each office and showed them on the drawings; a typical sign location for each office, 24"X36" maximum unlighted. Then we just showed a sign beside each door.

Bob Kerr: But no other signs proposed, a free standing sign, or...

Byron Jefferson: We don't really have room to fit a site sign, so to speak.

Bob Kerr: And then the last two notes, are kind of just the typical approval process. Then there's a checklist of what is and isn't provided on the site plan, as far as the requirements and according with the Code.

Bob Heinrich: Thank you, I think that was helpful.

Don Mazzeo: It cleared the water a little.

Bob Heinrich: It may shorten things a bit right now.

Don Mazzeo: Do we have any other questions or comments from the Commission members, as relates to this particular application?

Barry Goodinson: Yes, I have a question in terms of the parking that you provide, it far exceeds what's required. Why did you choose to basically over the whole front and then eliminate the opportunity for the planting of trees for landscaping, for signage?

Byron Jefferson: I don't think many commercial establishments suffer from too much parking. We took on this project after some other architectural group had been working on it, and we're pretty much using their preliminary site plan layout. I don't think, even though it exceeds the Code requirements, I don't think it's an excessive amount of parking for a

building with three offices.

Don Mazzeo: Are you proposing when this gets approved, for you to go in there to change out, or remove the existing sidewalk to bring it up to much more beautification, let's put it that way? I mean, they are not in good shape as I saw them today, the existing ones.

Byron Jefferson: We have not proposed that. If the Town requires that, so be it, but we had not proposed it.

Don Mazzeo: Okay.

Bob Heinrich: Mr. Chairman, I'm just questioning, is that something we can require? In fairness to the applicant, I'm just wondering what normally would be done in a situation like this?

Don Mazzeo: In a preliminary hearing, we're asking the applicant if he is willing to upgrade the existing sidewalks, so we can move forward. That would be one of my conditions if we were to move forward on this.

Barry Goodinson: Yes and mine would be related to that. I'm just concerned about the whole front, most visible part of this being paved. I just don't think it brings any benefit, esthetically to the town. So I would be concerned about that.

Don Mazzeo: Barry, are you suggesting perhaps that the applicant reduce the number of parking places?

Barry Goodinson: Yes. Yes, I would reduce the seven across the front and landscape. Because basically you're turning the side of the building to what is experienced by most people as the front of the building. A lot of people going down Route 16 are going to see the back, that's going to be screened; they're going to see the side; the only people who are going to see the front, which is designed to be the most appealing part of the building, are the folks that are going to be heading west on Route 16, but everyone else is going to be looking at the back and the side and if we can make this a better, more attractive building for the town by eliminating the parking in the front, landscaping it, that's what I would recommend.

Tim Nicholson: What would that bring your number of parking spaces down to?

Barry Goodinson: It would bring it down to the required 13.

Byron Jefferson: If he wants to reduce the parking spaces down to the required minimum, we can certainly do that and provide landscaping. Is the Planning and Zoning Commission the proper place to tell us if we could take the stormwater across the town's property? I'm just thinking how...

Don Mazzeo: I am not sure of that. Robin, did you hear that question?

Robin Davis: No.

Bob Kerr: I think an easement would have to be prepared and it would have to go before Mayor and Council before acceptance and execution.

Don Mazzeo: Okay.

Lynn Ekelund: But would that be part of... included in our recommendations?

Don Mazzeo: A condition.

Bob Kerr: Well you don't make a recommendation, it would just be a requirement that they would have to obtain all necessary easements, unless there is... and I'm almost stepping on Seth's toes, so kick me when I get too far, Seth; there would need to be an easement on the Milton Landing property for their pipeline to legally do it. It should be more than just a letter agreement. It should be a legal easement.

Seth Thompson: Part of the problem with having just an agreement, is you want it to be binding all successors, heirs and assigns, so you certainly could record the agreement as a means of putting all future owners on notice that that's going to be binding on them, but it should be part of the land records; and the same thing with the Town of Milton. And I

would assume that the Town would want some sort of agreement in place in terms of who's going to carry the liability for that pipe going across it's property.

Byron Jefferson: Would you be willing to provide us with the wording for that, that would make the town... rather than us come up with the wording that the town doesn't like.

Seth Thompson: Yes, we have draft easements, so we can do that.

Byron Jefferson: I think as far back to the sidewalk, I don't think that putting a new sidewalk and replacing the town's poor condition sidewalk, where the new sidewalk would be that much of a burden and I could see doing it.

Seth Thompson: The Town Code does provide for the property owner to prepare the sidewalk. That is part of our Code.

Bob Heinrich: I wasn't aware of that, that's the only reason I asked the question.

Don Mazzeo: Linda?

Linda Edelen: The parking, not to necessarily take the developer's position, but he has three offices planned; 13 spaces may not be enough and may create a problem and he's going to have three receptionists, not one. There are going to be duplications and I don't want to restrict his opportunity to rent that space because we think the esthetics are a good trade-off. Eliminating one space, two spaces, make the entrance a little bit more attractive, but knocking off seven, I think is really tough.

Bob Heinrich: I'm going to agree with that, because when I first heard the applicant say that usually we need more parking, then less, I probably would go along with what Linda is saying here. I had the same thoughts myself.

Bob Kerr: Mr. Chairman, if I could add something. Robin reminded me, but hearing that it could be a medical office, that increases the number of parking spaces required to one for every 200 sq. ft., or 20 spaces, so it's presented as office, which is one per 300 sq. ft.; but medical office is one per 200 sq. ft.

Don Mazzeo: So we should err on the side of caution, to make sure that there is sufficient parking. Admittedly I happen to agree with Barry to the extent that I would like to see some additional greenery, something that would enhance the esthetics of the entire area; this would be a very good space to start on it, but at the same time, I don't want to start seeing cars parking across the street, into someone else's parking lot, for those who may be frequenting Mr. Ingram's new building.

Byron Jefferson: We could landscape the easement across the town's property.

Don Mazzeo: Nice try. No. We wouldn't do that. Well let's just think about that for a little bit. I'm going to set that aside at the moment. Are there any other questions, comments from the Commission regarding this application? I'm seeing none, I would like now to open this up to the public; anyone who is here from the public who would like to comment on this application, please come forward, state your name and your address. I don't see anybody coming forward. The public portion has now been closed.

Seth Thompson: Mr. Chairman, Robin can confirm that we didn't receive any written comments.

Robin Davis: No, there were no written comments received before 5:00 today.

Don Mazzeo: Okay, thank you. Very good. Well. I will start commentary on this, by stating that I'm glad to see that there's something going on in town, that's bringing potential new business and this looks like a very strong start to that. Any time that we can draw people to the town, buildings to the town, and it's not in the wrong zone, it's a commercial building in a commercial zone; you can't get any better than that. That being said, I would like to entertain other comments, if there are any and if not, I will not entertain a motion on this particular application. Again, this is a preliminary...

Lynn Ekelund: I think we're still in the Public Hearing portion.

Seth Thompson: We'll need to move to the Business portion.

Lynn Ekelund: We've got b under Public Hearing, unless you want to...

7. Business – Discussion and possible vote on the following items:

b. Preliminary Site Plan Review

The applicant, Richard Ingram is requesting a preliminary site plan review/approval to construct a one story office building on the property located at 901 Palmer St. The property is zoned C1 (Commercial) and is further identified by Sussex County Tax Map and Parcel # 2-35-14.00-114.02.

Don Mazzeo: No, I'm taking the Business portion of this application, so we can close the public portion of this application and we'll start it again on the next one. So that's why I'm now opening the floor to a motion to what is the pleasure of the Commission.

Bob Heinrich: I'm not sure what you're looking for the motion for.

Tim Nicholson: I'm not either.

Barry Goodinson: What is the scope of what we're approving?

Don Mazzeo: The scope of this application is you can take it and approve it as it's presented to us tonight, with conditions, without conditions; you can reject it and say we deny the application and then you better have some good reasons behind it either way.

Tim Nicholson: I don't think we're going to do that.

Bob Heinrich: I'll make a motion right now to accept, with the conditions that we discussed...

Don Mazzeo: Let's enumerate them so that we don't have any potential questions, either by the applicant or by the Commission.

Seth Thompson: Mr. Chairman, if you want, I tried to mark as the Town Engineer went through, but it looks like following Mr. Kerr's memorandum, number 5 was a substantive change, where just the note regarding Mayor and Council needed to be removed.

Don Mazzeo: Okay.

Seth Thompson: On my other notes, I have that there needs to be a maintenance agreement and easement, presented from the Town of Milton and Milton Landing, in conjunction with the Stormwater Management.

Don Mazzeo: Right.

Bob Heinrich: Okay.

Seth Thompson: The applicant needs to show where they're going to replace the sidewalk. I don't believe there was a resolution on the additional landscaping/parking.

Don Mazzeo: And that's where we can have some minor discussion and/or...

Bob Heinrich: Could that even be held for the final approval?

Seth Thompson: It really needs to happen at the preliminary phase because the final approval should seemingly be hopefully they've met all their conditions and then it's just the final approval. It shouldn't require additional conditions. So just to kind of finish up, before we circle back to the additional landscaping/parking issue, let's see the 5' sidewalk proposed along Route 16 needs to extend to the western property line. The water main needs to be reviewed... And curb, I'm sorry. The water main needs to be reduced in size to be more proportionate to the building. We've discussed the stormwater. It looks like the trees on the landscaping plan need to be brought up to at least the proper height, 7', it looks like, based on the Code. And I think the applicant clarified that there wouldn't be any additional new signs. I don't know if there are any details provided on what the existing sign is, exactly what it says at Palmer Street and Route 16, but those were my notes.

Don Mazzeo: Then, of course, all of the other approvals to be included from Sussex Conservation, DelDOT, etc., etc., they all have to be met, of course.

Seth Thompson: Great and the bumper blocks and curbs for parking spaces on Palmer Street.

Don Mazzeo: Right. Then the only one that has not yet been...

Lynn Ekelund: Seth, I think you were also going to provide them with a Draft Easement.

Seth Thompson: That's right. It will be a Maintenance Agreement/Easement to deal with the Town and then they'll also need something similar that the town is willing to accept from Milton Landing.

Don Mazzeo: So the only other condition that was under discussion was the removal of parking spaces to have additional landscaping. I am of the opinion, as much as I like to see more greenery, I would rather have the sufficient parking places, should that become a necessity for what was going to be potentially medical offices. So I would...

Barry Goodinson: I'm wondering if the parking plan can be modified to accommodate... There are no power lines along that side of the road, so you could plant street trees, you could plant canopy trees along there. Would you be willing or able to bump out parts into the parking lot to accommodate tree wells? You wouldn't have to eliminate seven parking spots. I don't want to get in the way of business, either, but I also think that making the town attractive for people to come to increases business.

Byron Jefferson: We can accommodate whatever reduced number of parking spaces you decree, so to speak; we could provide a bump out into the parking area; I mean one bump out would take out one parking space and we may be able to get two skinny bump outs and still only take one parking space, but we have to be careful with site distances along Route 16. Putting trees out there is going to make it harder for people to come out of Palmer Street to see and I don't know what DelDOT's reaction to that would be. In my opinion, as far as people seeing the building, traveling by, we're not proposing to put up a big sign and office buildings don't usually get drive... They're not like the Dollar General. People wouldn't normally say well here's an office, I want to stop here. I mean, they're there on a mission and they know where they're going, or have a pretty good idea where they're going.

Barry Goodinson: I'm not talking about as a destination, but in terms of contributing to the overall esthetic of the community.

Byron Jefferson: We're hoping to make the building beautiful. But whatever the Commission decides as far as the number of parking spots, we'll agree.

Don Mazzeo: My problem, Barry, is if we request him to reduce it, by even one and it becomes a code issue now, because then we're telling him by code he must have 20 and we just told him take one way; so we're in conflict against our own code.

Barry Goodinson: Exactly. Right.

Don Mazzeo: We shouldn't do that and under those circumstances alone, I will have to say keep the 20 parking spaces. Now, I defer to anyone else on the Commission, certainly.

Bob Heinrich: I agree with that.

Tim Nicholson: I agree too.

Don Mazzeo: Okay, so there is no condition on the change for parking spaces and Mr. Heinrich, I think your motion has been stated. We need a second on this now.

Tim Nicholson: Second.

Don Mazzeo: Roll all vote please.

Linda Edelen	Yes
Bob Heinrich	Yes
Lynn Ekelund	Yes

Tim Nicholson	Yes
Barry Goodinson	Yes
Don Mazzeo	Yes

Don Mazzeo: The application for preliminary review of the property at 901 Palmer Street, zoned C1 (Commercial) and is further identified by Sussex County Tax Map and Parcel # 2-35-14.00-114.02 has been approved.

6. Public Hearing

b. Special Permitted Use Application Review

The applicant, Truitt Jefferson is requesting a special permitted use review/approval for the construction of a parking lot to be used for supplemental parking for an adjacent property. The proposed parking lot would be located at 201 Broadkill Road. The property is zoned C1 (Commercial) and is further identified by Sussex County Tax Map and Parcel # 2-35-14.15-101.00.

and

c. Special Permitted Use Application Review

The applicant, Truitt Jefferson is requesting a special permitted use review/approval for the construction of a parking lot to be used for supplemental parking for an adjacent property. The proposed parking lot would be located at 201 Broadkill Road. The property is zoned C1 (Commercial) and is further identified by Sussex County Tax Map and Parcel # 2-35-14.15-101.00.

Don Mazzeo: Do we have representation from this applicant here tonight?

Charles Adams, Adams Kemp Associates in Georgetown, Delaware: Good evening. I'm representing Truitt Jefferson as owner of the property and Amy Clendaniel as lessee. What we have is a transitional use of the building that was moved from child's apparel, was it's last use, to the creation of a restaurant space at this corner of Bennett and Route 16. The square footage for the building is approximately 2,600 sq. ft., requiring parking number of 26 spaces, one per 100 sq. ft. and the existing parking on the site was insufficient on the corner lot. It is a separate tax parcel. This is a separate tax parcel. The main parcel is right here. Both are owned by Truitt Jefferson. The solution to the problem was to add this additional parking space and another parcel. Both are zoned C1 to come up with the 26 spaces. We have sent copies of plans to DelDOT and Mr. John Fiore has reviewed it. I spoke to him today and he's looking at the total ADT, or traffic generation that we provided for him, but he's agreeable with it to date. The only improvements that they would require, according to his statement today, was extension of the curbing along 16 that would reach the end of the proposed parking area. We would also add a proposed walk that would extend the length of the parking area. The other area was an existing conditions situation when the other applicant went to DelDOT. We did that plan, as well, for Richard Bryon and they required the curbing at that time and no sidewalk was provided and we worked with existing paving on the existing parking, at that time and that's the way it was permitted then. We've added to the plan landscaping features, a split rail fence that would surround the end of the parking lot and encompass

the back end of the parking area and we've provided lighting at the...

Bob Heinrich: What kind of fencing was that? I'm sorry, I didn't...

Charles Adams: Split rail.

Bob Heinrich: Foot rail.

Charles Adams: Split rail.

Linda Edelen: Split rail.

Bob Heinrich: Oh, split rail. I'm sorry. My hearing is gone.

Charles Adams: Split rail. The sidewalk and curbing, because of the dedication area, DelDOT requires a dedication strip along 16 of 10 additional feet, that's dedicated for expansion by DelDOT, if necessary in the future; so anything within that area would have to be built to DelDOT's standards, the new walk and the curbing would be built to DelDOT's standards. The parking lot would meet the Town of Milton standards, as far as the paving cross-section. They parking in this area would be re-stripped to accommodate the parking and an additional rubbish and recycling center would be put at the open space at Bennett Street. I think that just about covers it. I do have the comments I just received from Bob Kerr and if you would like to go over them, I don't mind.

Bob Heinrich: I have a question. Regarding the existing parking area and proposed parking areas, I was there a few days ago myself and I can't recall, what is the condition of the paved area in there right now. Is one finished and one not finished, or is the whole thing paved and to be re-stripped.

Charles Adams: It's to be re-stripped.

Bob Heinrich: Re-stripped. So all of that asphalt is there right now?

Charles Adams: Yes.

Bob Heinrich: And it's condition?

Charles Adams: The asphalt is fairly good condition. It would probably be surface treated during the process of this one, so it would be totally surface treated and re-stripped, because this has sort of faded out anyway from it's original construction, so that would be all re-stripped.

Bob Heinrich: I guess that would beg the question, too, when was the original construction on that? How long ago?

Charles Adams: I'm thinking 2006, but I'm not sure. Something along that timeframe.

Don Mazzeo: Mr. Kerr, you're on.

Bob Kerr: Thank you. Kind of skipping down and starting with number four, I think might be the best. As was stated, the building is approximately 2,600 sq. ft., and therefore 26 spaces are necessary and the real reason for this, this evening, is there aren't 26 spaces on the existing parcel. Number six, there are new streetlights shown. A cut sheet was provided for the new parking lights. The drawing does show one at the corner of parking space number 21, on each side of it basically, so it's probably one of those drafting things; it kind of snuck in there that one of them could be eliminated. Four lights would certainly be more than adequate for this parking lot. My note number seven was about curbing along actually both parcels, or the new parcel where the limits of the curbing would be and we might have to get Seth to jump in here. Is a curb required all the way across the new proposed area, or just in the portion of the lot that has construction in front of it and...

Bob Heinrich: I think I'd prefer to see curbing completed all the way.

Don Mazzeo: I ask all that.

Barry Goodinson: Yes.

Linda Edelen: Yes.

Bob Kerr: Therefore, the next question would be does the sidewalk, follow right with it?

Don Mazzeo: It follows right with it. It follows right with it.

Lynn Ekelund: And by all the way, are we talking all the way to Morris?

Bob Kerr: That was the third question.

Charles Adams: I posed that question to John Fiore and DelDOT does not require it. We know that Mr. Jefferson will be developing, or somebody may be developing the rest of the property some time in the future. DelDOT does not require curbing or sidewalk beyond the fencing of this project. I just wanted to tell you that that's what John Fiore told me today.

Lynn Ekelund: That brings up a question that I have. I noted when I was out there a couple of days ago, there's a For Sale sign in the lot. Is the parking lot to be separated from the rest of the parcel?

Charles Adams: Not at this time. It may be if a buyer comes forward and either wants to add this additional part to this piece. It's under discussion, but we just don't have any plan right now.

Lynn Ekelund: Well then if a buyer comes forward and says I want the entire parcel...

Linda Edelen: Are you talking 101?

Lynn Ekelund: I'm talking from...

Don Mazzeo: The westerly border.

Lynn Ekelund: From there over to Morris, which is the next street.

Linda Edelen: If a buyer wants that entire parcel, then what do we do about the 13 parking spots that have been allocated to Amy's Restaurant?

Seth Thompson: From a legal perspective, at that point a condition of the Special Use permit would no longer be met, in that those 13 parking spots weren't being used for the adjacent parcel.

Don Mazzeo: Therefore, the restaurant would then have to go out of business...

Lynn Ekelund: Because it would not have 26 parking spots.

Don Mazzeo: Right.

Seth Thompson: Right.

Lynn Ekelund: That's my question, if that's...

Seth Thompson: To me, really you'd have a two-fold reaction. The parcel with the 13 spots would no longer be in compliance with its permit, therefore, its special use would cease.

Lynn Ekelund: Okay.

Seth Thompson: And on the restaurant, they would then get cited for not having enough parking spaces.

Don Mazzeo: For insufficient parking.

Seth Thompson: Right.

Don Mazzeo: What's the remedy then; legal remedy?

Seth Thompson: It would be a code violation.

Charles Adams: There could be a lease option.

Seth Thompson: It sounds to me like they're going to redraw the line.

Charles Adams: A lease option – if a buyer came forward and there was no agreement on this parking, they would buy it with a condition that they lease it to the restaurant, as part and parcel of the use of this tax parcel and since Mr. Jefferson owns both parcels, it seems like to me that a real estate agreement could become to.

Linda Edelen: A deed restriction?

Charles Adams: It could be a lease agreement, a deed restriction, or actually a subdivision to make this parcel bigger and to include this and exclude that.

Linda Edelen: That would be a recorded document in the chain of title?

Don Mazzeo: Seth, a legal remedy has to be attached to this tonight; would that be correct?

Seth Thompson: Right, well the one thing we don't want to do though is let's say that Mr. Jefferson decided that a restaurant was no longer the best use for the parcel that doesn't have the special exception permit, he might want to reserve the ability to come to that business decision later on, by just doing a lease, as opposed to a deed restriction that's going to continue forever; so it could be a ten year lease, if that's what he thinks is appropriate for his restaurant. I don't know if Mr. Jefferson really wants to bind himself to always having that as a parking lot, but...

Don Mazzeo: But do we here at this Commission, have to have a binding document somewhere that provides those 13 spaces?

Seth Thompson: No, because, again, if those spaces... Well we would need to see their agreement and it would... but again, the problem is that we would cite the restaurant and if those spaces ceased to be used, in conjunction with that restaurant, then their special use would cease as well.

Don Mazzeo: Special use ceases.

Seth Thompson: So it wouldn't really require anything additional, you know what I mean; any additional recorded document. Obviously the town would need to know, so we would need to see their lease agreement; but as long as they continue to expect to use the parcel in that fashion, they need to be able to provide a lease that shows that, but I think a lease being provided to the town is probably... it does the same thing from the town's perspective, in terms of making sure that indeed that's what the use is, without then tying Mr. Jefferson's hands; because I take it that the prior use as a clothier was acceptable, so making it a deed restriction, I think probably negatively affects that parcel, more so than he would like, but you certainly could attach the condition that the town is always provided with the lease agreement for those spaces, showing that those spaces are being used for that adjacent parcel. If he comes to the conclusion that at some point that's no longer going to be a restaurant and he doesn't need that lease, you know that's fine; then he's not in violation on that parcel but the special use permit would expire on the 13 spaces.

Don Mazzeo: Okay. I think. Mr. Kerr had you finished your dissertation through item number 13, I guess? No, you hadn't. Had you?

Bob Kerr: I was someplace around number eight and the last several ones are more comments, then they really are questions or anything; it's just pointing out some things, such as there is landscaping shown and there is a split rail fence, and then what happens if it's approved here and it goes forward.

Don Mazzeo: Do any members of the Commission have any questions or comments of the applicant at this time?

Linda Edelen: We already talked about a proposed sidewalk on the existing property?

Don Mazzeo: We touched upon it, yes.

Bob Heinrich: And we did say that we would like to see that proposed curb and sidewalk extend further than what exists, I believe.

Linda Edelen: See there's no sidewalk here.

Bob Heinrich: As proposed on the drawing; proposed curb, where there's a grass strip, there's a proposed walk.

Don Mazzeo: So basically take the curb and sidewalk from the edge of the addendum piece of property, through to and including Bennett Street, all the way along 16.

Bob Heinrich: Right. Yes.

Don Mazzeo: Even though DelDOT may not necessarily request it.

Bob Heinrich: I'm not sure it covers up to Bennett Street. It looks like...

Don Mazzeo: That's the property line.

Bob Heinrich: But around Bennett Street. It doesn't go around Bennett Street. I understood you to say around Bennett Street.

Don Mazzeo: No. Up to.

Bob Heinrich: Yeah, right. Right.

Don Mazzeo: Right along Route 16 you're going to have a continuous sidewalk and curb running the entire length of what now will become a parcel plus piece of property. I think we all seem to be in agreement on that one. Any other questions, comments from Commission?

Seth Thompson: I think Mr. Jefferson has a comment.

Don Mazzeo: Quickly Mr. Jefferson. Please state your name and address for the record.

Truitt Jefferson: I own the property in question and we're trying to get a restaurant there to open up. The restaurant is a new business. It's real good, the food is, but we're trying to hold the costs down and if we've got to go put curbing and stuff across the part that's not even going to be used, it's not right to pass it on to her and so may be telling a business you don't want them to come to town.

Don Mazzeo: We don't want to state that to any business coming into town.

Truitt Jefferson: Well that could happen.

Don Mazzeo: However, that being said, we also want to maintain the appearances of the town, the esthetics of the town and particularly as it relates to Route 16. That is the thoroughfare through town, there's no question.

Truitt Jefferson: No question about it.

Don Mazzeo: I think it would really enhance the property, quite honestly.

Truitt Jefferson: Yeah, but anyway, you're the committee. I just want you to know that if we've got to run it _____, it's more costs that she's got to bear and she's got to determine whether she wants to do it or not, because she likes Florida.

Bob Heinrich: I just hope it's a good restaurant.

Truitt Jefferson: Less competition.

Don Mazzeo: Any other comments before I open up the public portion?

Lynn Ekelund: I have a question. How many handicapped spaces, out of the 26?

Don Mazzeo: I didn't see any on there.

Lynn Ekelund: I don't see any designated.

Charles Adams: There's two.

Don Mazzeo: Are the notated on yours, but not on ours?

Lynn Ekelund: I missed them.

Bob Heinrich: Yeah, they're not on here.

Linda Edelen: They're not here, are they?

Charles Adams: You'll see a cross-hatched area on 10 and a cross-hatched area on 11 and they're there.

Lynn Ekelund: Oh, that's handicapped. Okay.

Charles Adams: Two handicapped.

Don Mazzeo: Does that meet the requirements of Code, that there should be two out of the 26?

Bob Heinrich: A minor point on that...

Bob Kerr: I don't believe the Town Code has a requirement, it would just fall under the ADA Standards.

Don Mazzeo: Okay. Does that meet ADA Standards anyone know?

Charles Adams: I think it's one for 25, is ADA Standard.

Don Mazzeo: It sounds like we're in compliance.

Charles Adams: That sounds right.

Bob Heinrich: I would ask this. The entrance to the restaurant would be where, on...

Charles Adams: Directly in the front.

Bob Heinrich: In the front. Okay. Alright.

Linda Edelen: On the street side, right?

Bob Heinrich: I'm just asking a question.

Charles Adams: Facing 16.

Bob Heinrich: Wouldn't it make more sense to put the handicapped parking closer to the entrance, or not?

Charles Adams: Well there's number 11, you would just have to walk around. We could realign somewhere and put it between 6 and 7, is that what you... Between 6 and 7, right in front of the entrance.

Bob Heinrich: Okay, the lady would like to say something, I think.

Amy Rai, Lincoln, DE: The handicapped parking, the reason that I wanted to have it here is because we have covered sidewalk that goes here, so part of the thing is, a day like today. My other concern, is that a handicapped person, thinking about how they actually have to move, doesn't have to cross where there may be cars driving, in a wheelchair, on crutches, whatever the case may be, so they're able to come out, immediately access the sidewalk, which we're putting a ramp into, and go on a covered, safe, sidewalk around to the door. That was my thing, so there was thought...

Bob Heinrich: Okay, that makes sense.

Lynn Ekelund: That's for 11, but 10 still has to cross the way.

Amy Rai: I think they're actually both here, aren't they?

Lynn Ekelund: No, one of them is 10 and one of them is on 11.

Bob Heinrich: Yeah, one's across the street.

Amy Rai: My original thought is that they both be here.

Bob Heinrich: That makes sense.

Lynn Ekelund: That would make sense.

Barry Goodinson: So it would be 11 and 12.

Don Mazzeo: 11 and 12 would now become the handicapped locations.

Bob Heinrich: And would that affect the width of 13, because it looks like you might be squeezing...

Amy Rai: I think we'll be okay.

Linda Edelen: What's this?

Amy Rai: And we have a little bit of room here with our rubbish/recycling container.

Bob Heinrich: I have no further questions.

Lynn Ekelund: Again, I'm assuming that in part of your lease agreement, or whatever agreement will be provided to the town, that you would be responsible for maintaining the parking lot, ice, trash...

Amy Rai: Oh, I'm going to be out there picking up those cigarette butts, let me tell you.

Lynn Ekelund: I know you personally.

Amy Rai: Yes, all of that is going to be written out in our lease. Is that something that you all require is a copy of our lease?

Don Mazzeo: Typically not, yes? Yes?

Seth Thompson: Not of the lease, but we need the agreement that says that the parking spaces...

Amy Rai: Right. Right.

Lynn Ekelund: And I'd like to know that somewhere it's written down that someone is

responsible for the maintenance of the ice, snow, making sure, snow removal, trash, liquor bottles, you know the whole thing.

Linda Edelen: Why this particular piece of property; we don't do that for every property, do we?

Lynn Ekelund: Are you renting? That's what I don't understand, because it's owned by two different people, so...

Amy Rai: All of this is owned by Truitt.

Lynn Ekelund: All of it is owned by Truitt.

Amy Rai: The entire parking lot is Truitt.

Lynn Ekelund: But...

Amy Rai: I'm renting...

Bob Heinrich: Okay, you're the renter.

Amy Rai: I'm leasing this building.

Lynn Ekelund: You're the renter and you're renting that building.

Amy Rai: I'm leasing this building.

Lynn Ekelund: Okay, and then...

Bob Heinrich: You're the present renter/leaser?

Amy Rai: Yes.

Lynn Ekelund: So you would also be leasing the parking lot on 101?

Amy Rai: This parking lot.

Lynn Ekelund: Okay. Alright.

Amy Rai: This building is, you know, it's like a free set of Ginzu knives; you get this parking lot with this building.

Lynn Ekelund: And that's just extra.

Amy Rai: And then that's the one that we have the agreement on.

Lynn Ekelund: Gotcha. Okay. Super.

Don Mazzeo: Okay. Do we have any other commentary from the public, since we seemed to have opened the public session.

John Booros, 115 Broad Street: To make this man put a curb all the way down Morris Avenue, we're begging for businesses to come to this town and to put an expensive restriction like that on Mr. Jefferson, unless Mr. Jefferson's got that kind of money to throw around – I'll take some of it, but I think that's an undue burden to ask anybody to do. It's an unimproved piece of property up there, with grass. I saw it today. He's putting the curb where DelDOT requires him to put the curb and sidewalk in front of that parking lot area there, to ask him to go all the way down to Morris Avenue...

Barry Goodinson: To Morris Avenue? I haven't said that. To Bennett.

John Booros: You said it across the whole front of the...

Don Mazzeo: No. To Bennett.

Bob Heinrich: No, no, no, no, no. To Bennett.

Don Mazzeo: Bennett to the edge of that parking lot.

Bob Heinrich: That's what's on the proposed drawing.

Don Mazzeo: That's it.

John Booros: Okay. I thought I heard you all say you're going to take it all the way down to the end.

Lynn Ekelund: No, I asked a question as to whether we were asking... My question was all the way down to Morris?

John Booros: Yeah, well that's...

Lynn Ekelund: That was my question.

John Booros: Thank you.

Bob Heinrich: As proposed on the drawing.

Amy Rai: Hi. When we talk about it going to Bennett and I should probably just keep my mouth shut here; this is the existing. This is actually what we're talking about here tonight.

Don Mazzeo: Right.

Amy Rai: This is where we're talking about adding sidewalk and curbing. This is the new construction, so this is what falls under the Town's new Code of... New, two year's old, or however old it is, of curbing and sidewalk. This is already existing. So my question here is are you requiring us to tear up this parking lot and add curbing and sidewalk?

Bob Heinrich: No, that wasn't my intent.

Lynn Ekelund: That wasn't my intent.

Amy Rai: Okay.

Barry Goodinson: What exists there now is grass, is that correct? Between the parking lot and the street?

Amy Rai: It's paving. Paving.

Barry Goodinson: Oh, it's paved right...

Amy Rai: It's all paved, with an odd curbing, you know one of those kind of...

Lynn Ekelund: Like a bump almost.

Amy Rai: I'm sorry. A bump and that's what's there now, that's what exists now. We're fine with putting sidewalk and curbing here; I actually like the idea of people being able to get out of their cars and come around, although that would be weird, but our sidewalk in front of the building, which already exists, we're going to bring down to here; so that was my concern is talking about going all the way to Bennett Street and putting that in there. It means that I have to tear up all of that curbing; I have to then, again, talk to DelDOT. It just puts more... It involves a whole lot more than just adding curbing and sidewalk on the grass lot.

Don Mazzeo: The intent was to have a curb that will span Bennett to the end of the new 13 parking lot spaces.

Amy Rai: Got it.

Don Mazzeo: As long as that is there, when we're all said and done, I believe at the Commission's level, at least, are satisfied. Now Robin may have something else to add.

Robin Davis: No, because currently there is curbing that starts at the entrance on Bennett Street, curbs around and follows along 16 and stops.

Don Mazzeo: Ends at the existing...

Robin Davis: There's already existing curbing, so I would take what the Commission is stating, from that point heading west run a curbing and sidewalk to the end of the fence.

Don Mazzeo: Correct. Ultimately when or if the next parcel becomes a new owner building upon it, that would then take the balance of the property all the way through to Morris.

Amy Rai: Got you.

Barry Goodinson: And I'm not sure if it's necessary to continue the walk. I think, install the walk in the new parking lot, but in terms of extending it further up; esthetically, yes, it will make a nice cleaner line and all that business; but in terms of the practicality, people can just walk on the parking lot, so I'm not concerned about adding a sidewalk.

Bob Heinrich: Yeah, well the walk ends at the last parking space, anyway, I believe.

Barry Goodinson: Yes.

Bob Heinrich: So I don't have a problem with that either.

Amy Rai: Okay. Thanks.

Don Mazzeo: Okay. Thank you Amy. Any other questions, comments from the public?

Seth Thompson: We did not receive any written comments, I believe. Mr. Davis is confirming that.

Robin Davis: We did not.

Don Mazzeo: Okay. Seeing no other comments, the public portion of the application is now closed and I will entertain a motion on the application for special permitted use... I'm not going to read that again.

Seth Thompson: Mr. Chairman, I'll go through what findings need to occur and you can just say whether or not you feel based on the evidence that was presented, that those findings exist.

Don Mazzeo: Alright.

Seth Thompson: But the Commission is to find that the request is in compliance with the general purpose and intent of our Zoning Code, taking into account the location and size of use, the nature and intensity of the operations involved in or conducted in connection with the use and the size of the site, with respect to street giving access thereto. The Commission shall find that the establishment maintenance and operation of the use applied for under the circumstances of the particular case will not be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of such proposed use, or will not be detrimental or injurious to the property and improvements in the neighborhood or the general welfare of the Town. The proposal will not result in the destruction, loss or damage of any natural scenic or significant historical resource. It will not create excessive additional requirements of public cost for public utilities and services and will not be detrimental to the economic welfare of the community. The proposal will be served adequately by essential public facilities, such as highways, streets, police and fire protection, stormwater drainage, water and sewer, schools or that the applicant for the proposed special use shall provide these services adequately. The proposal essentially conforms with the Comprehensive Plan. All proposed structures, equipment or material shall be readily accessible for fire and police protection. The proposed use shall be of such location size and character that in general, it will be in harmony with the appropriate and orderly development of the district and it conforms with the applicable developmental guidelines.

Don Mazzeo: Having heard that Commission, does anybody have any objections to what is being proposed?

Commissioners: No.

Don Mazzeo: Now, I will entertain a motion on the application for special permitted use for a supplemental parking lot. If you would, make sure we have all of the conditions accordingly.

Bob Heinrich: I'll make that motion to approve with all of those according conditions, as just read by our Solicitor.

Tim Nicholson: Second.

Don Mazzeo: I think we perhaps need to enumerate them a little bit more in detail, those conditions, such as that we would like the applicant to be sure that we've got all of the appropriate Sussex Conservation District, DelDOT, all those approvals must be in place; that we are going to have a sidewalk and curb for the distance of the additional parking lot spaces.

Bob Heinrich: I thought we all agreed on that, though.

Don Mazzeo: It's a condition.

Bob Heinrich: Oh, okay.

Don Mazzeo: It's a condition.

Lynn Ekelund: I think we also want to state that the handicapped parking is going to be spaces 11 and 12, rather than 11 and 10. One of the lights would be removed on either side of the space 21 and Seth, did you need a copy of the lease or some form of documentation about the arrangement between Amy and Mr. Jefferson, as far as the use of the parking lot?

Seth Thompson: Yes.

Don Mazzeo: You will provide some kind of direction to the applicant on the legal terminology on this one?

Seth Thompson: I will.

Don Mazzeo: Mr. Kerr, you seem to have a question on this one?

Bob Kerr: Really it would be an agreement between Mr. Jefferson and Mr. Jefferson, wouldn't it...

Don Mazzeo: Both sides of his property. But she's renting the property.

Bob Kerr: But we don't typically get into leases. It's between...

Don Mazzeo: Between tenant and lessee.

Bob Kerr: Typically it would be between property owner and property owner when it's a parking agreement.

Lynn Ekelund: Okay.

Seth Thompson: But again, it's for the tenant's use, so I think it's going to need to be clear that that... And that's fine, but we can't have Mr. Jefferson then saying okay I agree with myself, not to abide by this agreement anymore. So we need to have that other party in there, so that it's binding.

Don Mazzeo: Okay. Any other conditions that we've overlooked?

Bob Heinrich: I think we got them all.

Lynn Ekelund: I second that motion with the conditions.

Don Mazzeo: Roll call vote please, again:

Linda Edelen	Yes
Bob Heinrich	Yes
Lynn Ekelund	Yes
Tim Nicholson	Yes
Barry Goodinson	Yes
Don Mazzeo	Yes

Don Mazzeo: I applaud the ability of another business coming into town.

Bob Heinrich: We need all the good restaurants we can get here, so we wish you success.

Lynn Ekelund: I second that.

Seth Thompson: If I can just jump in before everybody leaves. So we've dealt with the special exception permit; we've essentially reviewed their preliminary site plan as well, obviously, in conjunction with the permit application. Are you going to have them come back in with a Final Site Plan, instead of just coming back in to show us the very same Preliminary Site Plan?

Don Mazzeo: Well this was considered what?

Bob Heinrich: Preliminary.

Don Mazzeo: This was a preliminary; we have to have them come back for a final.

Seth Thompson: Right. Right, but they won't need to come back to review this as a preliminary site plan, because it was done in conjunction with the special permitted use.

Don Mazzeo: Agreed to that, but you will have to come back for a final.

Garbled speaker:

Don Mazzeo: Don't muddy the waters tonight. It's been approved.

8. Adjournment

Lynn Ekelund: Move to adjourn at 7:50 p.m.

Tape cut off. No second or approval.